

## **Exhibit 5**

STATE OF RHODE ISLAND  
PROVIDENCE

SUPERIOR COURT

PETER MUMMA, in his  
capacity as Chief Executive Officer and  
President of the Board of Directors of  
Phoenix Houses of New England, Inc.

*Petitioner*

v.

PM-2021-00006

PHOENIX HOUSES OF NEW  
ENGLAND, INC.

*Respondent*

**PROPOSED OPERATING PLAN**

Petitioner Peter Mumma, in his capacity as Chief Executive Officer and President of the Board of Directors of Respondent Phoenix Houses of New England, Inc. (“Phoenix House”) and Respondent Phoenix House respectfully submit their Operating Plan as required by the Court’s January 5, 2021 order and Administrative Order 2020-04.

**I. INTRODUCTION**

Phoenix House, founded in 1967, is a substance use treatment organization. It operates a broad range of CARF (the Commission on Accreditation of Rehabilitation Facilities) accredited and other programs that currently serve approximately 1,000 men and women through 20 programs in Rhode Island, Massachusetts, Vermont, and New Hampshire. Phoenix House’s programs incorporate mental health, gender-specific, and trauma-informed services for those in need. Its facilities provide safe, affordable substance use treatment and behavioral health treatment in both residential and outpatient settings, and are designed to provide positive and healthy environments that create an empowering and healing space for recovery. Each individual’s treatment plan is designed with their mental, physical, and emotional wellness in mind.

The COVID-19 pandemic has had a devastating impact on Phoenix House and its ability to operate, particularly as a congregate setting. Due to social distancing requirements, staff illness and quarantine impacts, clients' perceptions of COVID-19 health risks that impede their willingness to seek care, and the challenges with inflows and outflows of clients in any congregate setting during a pandemic, Phoenix House has suffered an unrelenting drop in its census across its facilities. As a result, Phoenix House is experiencing a, presumably temporary, decline in revenues, unavoidable fixed costs, and increased expenses associated with mitigating the effects of the pandemic in and upon its operations.

Compounding matters, even prior to the pandemic, Phoenix House was operating on thin margins due to its heavy Medicaid-based client mix, rising costs of care, and significant fixed costs. It has also experienced serious challenges in tracking and reporting its financial data in a reliable and dependable fashion. Accordingly, weathering the the pandemic is likely not sufficient to ensure the long-term survival of Phoenix House. This plan, although preliminary in nature, anticipates the development and execution of short, medium and long-term strategies to ensure that Phoenix House will emerge from this proceeding stronger and better equipped to continue its critical community functions.

Phoenix House fills a critical role in the four states in which it operates. Its experienced and dedicated team of providers and caregivers serve a fragile population in dire need of its services and without viable alternatives for those needs, and offers a critical diversion opportunity for individuals suffering the effects and consequences of substance abuse.

In the State of Rhode Island, Phoenix saves the State millions of dollars annually that the State would otherwise have to pay either caring for Phoenix House's patients in unnecessarily

higher levels of acute care settings, such as in hospitals or emergency departments, or towards less effective and more expensive addiction related outcomes and costs, including those costs of law enforcement, crime, ambulance costs, child protective and other social services agencies, and most significantly, incarceration. Therefore, Phoenix House, the State and all of its many other stakeholders share the same aligned goal: to keep Phoenix House sustainably operating as a true safety net service provider for years to come. The need for these community resources that Phoenix House offers is at a historical zenith. Under normal circumstances, the loss of this critical institution would be devastating to the Rhode Island community, but in light of the heightened need created by the COVID-19 pandemic, this loss would be unconscionable and this plan is derived from every possible effort to prevent it.<sup>1</sup>

## **II. PRE-PETITION FINANCIAL SUMMARY**

Prior to filing its Petition, Phoenix House was operating at a net loss. As of January 4, 2021 (the “Petition Date”), Phoenix House had approximately \$566,000 in unrestricted cash on hand with an additional \$414,000 in restricted grant funding from the State of Rhode Island. As of the Petition Date, Phoenix House projected having \$49,000 in unrestricted cash on hand, \$264,000 in restricted grant funds and \$900,000 in payables following its next payroll pull date of January 8, 2021. In addition, between April and June 30, 2020, Phoenix House generated an approximate net operating loss of \$375,000 per month.

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<sup>1</sup> *Mental Health, Substance Use, and Suicidal Ideation During the COVID-19 Pandemic — United States, June 24–30, 2020* <https://www.cdc.gov/mmwr/volumes/69/wr/mm6932a1.htm> (last visited, January 5, 2021) (emphasis added).

### **III. PROPOSED OPERATING PLAN/CATEGORIES OF CLAIMS**

Phoenix House's cash position and ability to pay its ongoing bills is tenuous..Therefore, time is of the essence and this Operating Plan is intended to address the reality of Phoenix House's urgent and pressing cash situation.

The below plan will address treatment of the following claims:

- A. Pre-petition secured claims: There are no known pre-petition claims that are secured by collateral.
- B. Pre-petition unsecured claims: As identified above, Phoenix House has accrued pre-petition payables in the approximate amount of \$900,000. All of those payables are unsecured claims without any known collateral obligations.
- C. Post-Petition/Administrative claims: During the pendency of this proceeding, Phoenix House will continue to operate and accrue administrative claims.

The below plan is primarily focused on stabilizing Phoenix House's cash position, which will enable it to continue to meet its payroll obligations while it weathers the revenue dip caused by the COVID-19 pandemic and to engage in high-level and accelerated discussions with its key stakeholders to determine if any local, State, or private funding is available. To accomplish that goal, Phoenix House proposes to (1) preserve its cash flow; (2) identify other sources of funding; and (3) engage in stakeholder collaboration.

#### **A. Preservation of Cashflow**

Under the guidance and with the approval of the Special Master, Phoenix House proposes to immediately hold on paying all pre-petition payables, and payment of only essential post-petition vendors pending the stabilization of its cash position.

- i. Payroll.

- ii. Holding pre-petition payables is perhaps most important to preserve liquid cash resources for the payment of payroll costs to ensure a sustainable employment base. Over the past couple weeks, this approach has already proven successful. At the time of the filing of the Peition, Phoenix House had only enough cash to ensure payment of payroll due on January 8, 2020; however, after preserving cash that would otherwise be paid to pre-petition debt, Phoenix House was able to meet its payroll obligations on January 20, 2021 and anticipates being able to meet its payroll obligations on February 2, 2021.
- iii. Other expenses. Prior to and during the term of this proposed plan, Phoenix House will work with its vendors to manage and pay only those adminstrative, post-petition payables that are essential in nature. In addition to payroll and staffing expenses, other examples of essential expenses are those costs related to food services; cleaning and linen services; prescription, pharmacy, and controlled substance services; and programmatic expenses, such as psychiatric evaluation and physician consultation.

This proposed payment method is anticipated to preserve cash to maximize the possibility of continued operations. In fact, Phoenix House and the Special Master, at the time of the filing of this proposed operating plan, have been successful in negotiation post-petition payment terms with many vendors. Notably, many of those vendors hold pre-petition debt, but have agreed to continue serve on terms agreeable to Phoenix House and the Special Master. This approach is necessary to preserve the current cash position until additional liquidity sources are secured (as

discussed below). The continued operations, and payment of post-petition debt on the terms above propose a likelihood of either (1) stabilization and exit from the program; or (2) sale as a going concern—each of which holds a higher possibility of paying pre-petition debt than an immediate liquidation of assets.

### **B. Other Revenue Identification**

The proposed plan to preserve cash for the payment of essential expenses, like payroll, has provided time for Phoenix House to identify ways to supplement its top-line revenue during the continuing census crisis caused by COVID-19. Phoenix House has been successful in securing a commitment from the State of Rhode Island for an immediate grant disbursement of \$235,754 to support Rhode Island operations and is hopeful that it will be able to secure approximately \$900,000 in additional funding from the State in the coming weeks. Additionally, by taking advantage of a second-draw Paycheck Protection Program loan, and other COVID-19 grant programs and evaluating other, more traditional, financing options or possible State subsidies, Phoenix House anticipates being able to access sufficient liquidity to emerge from the COVID-19 pandemic and the corresponding revenue shortage caused by decreased census.

### **C. Stakeholder Engagement**

In order to ensure the long term success and survival of Phoenix House, the Special Master will engage with key stakeholders and critical community and government leaders to attempt to address the viability of the organization through legislative or administrative action. This path, which represents the long-term solution for Phoenix House, will require significant and ongoing discussions with these key leaders to underscore and protect the vital community interests represented by Phoenix House.

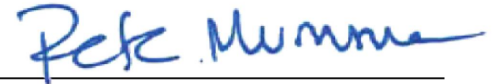
**D. Exit Plan**

The success of this proceeding will be measured in large part by the speed and depth of engagement and follow-through by Phoenix House's key stakeholders and the continuing effects of the pandemic on Phoenix House's operations.<sup>2</sup> Phoenix House intends to work closely with the Special Master to move quickly to implement this Proposed Plan.

**III. CONCLUSION**

WHEREFORE, Petitioner and Respondent respectfully request that the Court approve this Operating Plan.

/s/ Peter Mumma



Peter Mumma, his capacity as Chief Executive Officer and member of the Board of Directors of Phoenix Houses of New England, Inc.

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<sup>2</sup> For example, if Phoenix House's staff and clients were to be vaccinated in an early phase of vaccination roll-outs, it is possible that Phoenix House's census might begin to recover in the first quarter of 2021.



**CERTIFICATE OF SERVICE**

I hereby certify that, on the 25th day of January, 2021:

- ✓ I filed and served this document through the electronic filing system on the following parties: (other than the undersigned firms, there are no service contacts listed on the portal).

Brian Lamoureux and William O’Gara at bjl@pldolaw.com and wogara@pldolaw.com

The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary’s Electronic Filing System.

- I served this document through the electronic filing system on the following parties:

\_\_\_\_\_  
The document electronically served is available for viewing and/or downloading from the Rhode Island Judiciary’s Electronic Filing System.

- I emailed ~~or hand-delivered~~ this document to the attorney for the opposing party and/or the opposing party if self-represented, whose name is \_\_\_\_\_.

/s/ Christopher J. Fragomeni  
Christopher J. Fragomeni, Esq. (9476)